

### **REMARKS**

Applicants thank the Examiner for the interview of May 24, 2004, and the favorable discussion of claims presented below.

Claims 153-178, 184, 185, 195-212 and 232-234 are canceled without prejudice. Claims 179, 180, 182, 183, 186, 189, 190, 192, 194, 213, 224, 235 and 238 are amended. Cancellation or amendment should not be construed as acquiescence to the rejections presented below. Applicants reserve the right to pursue similar or identical claims to those cancelled and amended in this or related filings.

New claims 241-253 are presented. These claims, as well as the aforementioned amendments, are generally supported by the specification and claims as filed (see, for example, page 30, lines 3-30). No new matter has been introduced.

#### **I. THE CLAIMED SUBJECT MATTER IS PATENTABLE OVER THE ART**

Applicants note with appreciation that the Examiner has withdrawn all prior art rejections. Accordingly, none of the above amendments are made to overcome an issue concerning the prior art.

#### **II. CLAIMS 235-240 ARE ALLOWED**

Applicants note with appreciation that the Examiner has indicated that claims 235-240 are allowable.

#### **III. ALLOWABLE SUBJECT MATTER OF CLAIMS 179-181, 186-191, 223-226**

Applicants thank the Examiner for the indication that claims 179-181, 186-191 and 223-226 are drawn to allowable subject matter and are objected to only as depending from a rejected claim.

While Applicants do not acquiesce to the underlying rejections, claims 179-181 and 186-191 have been placed in condition for allowance by amending into an independent claim format, obviating the basis for the objection.

Claims 223-226 depend ultimately from claim 213. Applicants maintain that claim 213 as amended is in condition for allowance (see below), and therefore the basis for the objection is removed.

Therefore, Applicants request withdrawal of the objection to claims 179-181, 186-191 and 223-226.

**IV. THE PENDING CLAIMS COMPLY WITH 35 USC §112, 1<sup>ST</sup> PARAGRAPH**

The Examiner has rejected claims 153-178, 182-185, 192-222 and 227-234 under 35 USC §112, first paragraph, for alleged lack of enablement and for alleged lack of written description.

Applicants thank the Examiner for acknowledging that the specification is enabling for “methods of enhancing or inhibiting angiogenesis using ephB4 or ephrinB2 peptides or antibodies against ephB4 or ephrinB2”.

Nonetheless, Examiner has argued that the specification is not enabling for, and does not provide adequate written description for, methods that:

- 1) Employ “ephrins or ephs other than ephrinB2 and ephB4” (claims 153-177, 195-212, 232-234);
- 2) Encompass “more than activation or inhibition of eph or ephrin-mediated processes” (claims 153, 174, 232); or
- 3) Encompass “agonists and antagonists that are not portions of ephB4, ephrinB2, or antibodies against these two molecules” (Claims 153-157, 161-164, 174-178, 182-185, 192-205, 213-222, and 227-231)

For reasons already made of record, Applicants respectfully assert that the specification is fully enabling for the claims as previously pending. Similarly, for reasons already of record, Applicants respectfully assert that the specification provides adequate written description for the claims as previously pending. Nonetheless, in order to expedite prosecution, the claims are amended and are in condition for allowance.

Claims 153-178 are canceled without prejudice. Claims 182 and 183 are amended so as to depend from claim 179, which is drawn to allowable subject matter. Claims 184 and 185 are canceled without prejudice. Claims 192-194 are amended so as to depend from claim 186, which is drawn to allowable subject matter. Claims 195-212 are canceled without prejudice.

Claim 213 is amended to specify that “a component which binds EphrinB2” may be selected from the group consisting of: “an antibody which binds to EphrinB2, a soluble polypeptide comprising an extracellular domain of EphB4; and a soluble polypeptide comprising an antigenic portion of the extracellular domain of EphB4”. Applicants assert that this amendment obviates the grounds for rejection for lack of enablement and written description. Claims 214-222 and 227-231 depend, directly or indirectly, from claim 213. Claims 232-234 are canceled without prejudice.

In addition, Applicants assert that new claims 241-255 present no new issues relating to section 35 U.S.C. §112, first paragraph.

Accordingly, Applicants assert that the claims as pending are fully enabled and described. Reconsideration and withdrawal of the rejection of the pending claims under 35 USC § 112, first paragraph, is respectfully requested.

V. CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000. Applicants hereby request that any fee required for timely consideration of this submission be charged to **Deposit Account No. 18-1945**.

Dated: July 19, 2004

Respectfully submitted,

By   
John D. Quisel

Registration No.: 47,874  
ROPES & GRAY LLP  
One International Place  
Boston, Massachusetts 02110-2624  
(617) 951-7000  
(617) 951-7050 (Fax)  
Attorneys/Agents For Applicant